

### § 2743.3

### 43 CFR Ch. II (10–1–08 Edition)

(1) All conveyances shall be consistent with the land use planning provisions contained in part 1600 of this title, and in compliance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4371) and any other Federal and State laws and regulations applicable to the disposal of solid wastes and hazardous substances;

(2) Conveyances shall be made only of lands classified for sale pursuant to the procedures and criteria in part 2400 of this title.

(3) The authorized officer shall investigate the lands to be included in the patent to determine whether they are contaminated with hazardous substances. The authorized officer will require full reimbursement from the lessee for the costs of the investigation. The authorized officer may, in his or her discretion, make an exception to the requirement of full reimbursement if the applicant demonstrates that such costs would result in undue hardship. The investigation shall include but not be limited to the following:

(i) A review of all records and inspection reports on file with the Bureau of Land Management, State, and local agencies relating to the history and use of the lands covered by a lease and any violations and enforcement problems that occurred during the term of the lease;

(ii) Consultation with the lessee and users of the landfill concerning site management and a review of all reports and logs pertaining to the type and amount of solid waste deposited at the landfill;

(iii) A visual inspection of the leased site; and

(iv) An appropriate analysis of the soil, water and air associated with the area;

(4) The investigation conducted under paragraph (a)(3) of this section must establish that the involved lands contain only those quantities and types of hazardous substances consistent with household wastes, or wastes from conditionally exempt small quantity generators (40 CFR 261.5), and there is a reasonable basis to believe that the contents of the leased disposal site do not threaten human health and the environment; and

(5) The applicant shall present certification from the State agency or agencies responsible for environmental protection and enforcement that they have reviewed all records, inspection reports, studies, and other materials produced or considered in the course of the investigation and that based on these documents, such agency or agencies agree with the authorized officer that the contents of the leased disposal site in question do not threaten human health and the environment.

(b) The authorized officer shall not convey lands identified in paragraph (a) of this section if the investigation concludes that the lands contain hazardous substances at concentrations that threaten human health and the environment.

(c) The authorized officer shall retain as permanent records all environmental analyses and appropriate documentation, investigation reports, State certifications, and other materials produced or considered in determining the suitability of public lands for conveyance under this section.

Effective Date Note: At 73 FR 50201, Aug. 26, 2008, in § 2743.3, the introductory text of paragraph (a) was revised, effective Oct. 27, 2008. For the convenience of the user, the revised text is set forth below:

#### § 2743.3 Leased disposal sites.

(a) Upon request by or with the concurrence of the lessee, the authorized officer may issue a patent for those lands covered by a lease, or portion thereof, issued on or before November 9, 1988, that have been or will be used, as specified in the plan of development, for solid waste disposal or for any other purpose that the authorized officer determines may result in or include the disposal, placement, or release of any hazardous substance, subject to the following provision:

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#### § 2743.3–1 Patent provisions for leased disposal sites.

Each patent for a leased disposal site will provide that:

(a) The patentee shall comply with all Federal and State laws applicable

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to the disposal, placement, or release of hazardous substances;

(b) The patentee shall indemnify and hold harmless the United States against any legal liability or future costs that may arise out of any violation of such laws; and

(c) No portion of the land covered by such patent shall under any circumstance revert to the United States.

### § 2743.4 Patented disposal sites.

(a) Upon request by or with the concurrence of the patentee, the authorized officer may renounce the reversionary interests of the United States in land conveyed on or before November 9, 1988, and rescind any portion of any patent or other instrument of conveyance inconsistent with the renunciation upon a determination that such land has been used for solid waste disposal or for any other purpose that the authorized officer determines may result in the disposal, placement, or release of any hazardous substance.

(b) If the patentee elects not to accept the renunciation of the reversionary interests, the provisions contained in §§ 2741.6 and 2741.9 shall continue to apply.

## Group 2800—Use; Rights-of-Way

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